

make sure we are updating the Medicare guarantee for this century. In particular, what that involves is making sure that there are more opportunities for those who receive traditional Medicare to get the benefits of the CHRONIC Care Act. Already, the CHRONIC Care Act works well for what is called Medicare Advantage. We need to do more to make sure it is available for those who receive traditional Medicare.

Now, there are other issues the Finance Committee is working on that Ms. Brooks-LaSure will play an important role in—one being improving mental healthcare because mental healthcare has gotten short shrift in America for far too long. We know that Americans feel like they are getting mugged when they walk into a pharmacy and go to the window to get their prescription medicines. Look, for example, at insulin. Insulin prices have gone up twelvefold in recent years. The drug is not 12 times better. It is the same drug, but they are getting clobbered because the pharmaceutical companies can get away with it. So those are the kinds of practices that Ms. Brooks-LaSure is going to take on, and she is going to do it in a bipartisan way.

The Centers for Medicare and Medicaid Services is right at the center of taking on these and other important healthcare challenges. This critical Agency—one of the most important places in American healthcare—needs a leader, and it needs one now. She is, in my view, an excellent nominee. She is going to work with both sides here in the Senate, including on the issue our colleague Senator CORNYN has raised. I want to restate my interest in working with both Ms. Brooks-LaSure and Senator CORNYN on this matter my colleague from Texas has raised.

We are going to be voting in a couple of minutes, colleagues, and I urge a strong vote for an eminently qualified nominee, Ms. Chiquita Brooks-LaSure.

I yield the floor.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Thereupon, the Senate resumed consideration of the nomination of Chiquita Brooks LaSure, of Virginia, to be Administrator of the Centers for Medicare and Medicaid Services.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 117, Chiquita Brooks-LaSure, of Virginia, to be Administrator of the Centers for Medicare and Medicaid Services.

Charles E. Schumer, Patty Murray, Alex Padilla, Sheldon Whitehouse, Jeff Merkley, Jack Reed, Debbie Stabenow, Benjamin L. Cardin, Patrick J. Leahy, Elizabeth Warren, Jacky Rosen, Richard Blumenthal, Tina Smith, John Hickenlooper, Michael F. Bennet, Tim Kaine, Brian Schatz.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Chiquita Brooks-LaSure, of Virginia, to be Administrator of the Centers for Medicare and Medicaid Services, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ), the Senator from Louisiana (Mr. KENNEDY), the Senator from Kansas (Mr. MORAN), and the Senator from Indiana (Mr. YOUNG).

Further, if present and voting, the Senator from Texas (Mr. CRUZ) would have voted “nay” and the Senator from Indiana (Mr. YOUNG) would have voted “nay.”

The yeas and nays resulted—yeas 52, nays 43, as follows:

[Rollcall Vote No. 200 Exe.]

YEAS—52

Baldwin	Heinrich	Reed
Bennet	Hickenlooper	Rosen
Blumenthal	Hirono	Sanders
Blunt	Kaine	Schatz
Booker	Kelly	Schumer
Brown	King	Shaheen
Cantwell	Klobuchar	Sinema
Cardin	Leahy	Smith
Carper	Lujan	Stabenow
Casey	Manchin	Tester
Collins	Markey	Van Hollen
Coons	Menendez	Warner
Cortez Masto	Merkley	Warnock
Duckworth	Murkowski	Warren
Durbin	Murphy	Whitehouse
Feinstein	Ossoff	Wyden
Gillibrand	Padilla	
Hassan	Peters	

NAYS—43

Barrasso	Grassley	Romney
Blackburn	Hagerty	Rounds
Boozman	Hawley	Rubio
Braun	Hooven	Sasse
Burr	Hyde-Smith	Scott (FL)
Capito	Inhofe	Scott (SC)
Cassidy	Johnson	Shelby
Cornyn	Lankford	Sullivan
Cotton	Lee	Thune
Cramer	Lummis	Tillis
Crapo	Marshall	Toomey
Daines	McConnell	Tuberville
Ernst	Paul	Wicker
Fischer	Portman	
Graham	Risch	

NOT VOTING—5

Cruz	Moran	Young
Kennedy	Murray	

The PRESIDING OFFICER (Mr. HEINRICH). On this vote, the yeas are 52, the nays are 43.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Chiquita Brooks-LaSure, of Virginia, to be Administrator of the Centers for Medicare and Medicaid Services.

The PRESIDING OFFICER. The Senator from New York.

UNANIMOUS CONSENT REQUEST—S. 1520

Mrs. GILLIBRAND. Mr. President, I rise today to address the need to reform our military justice system.

Just this month, the Department of Defense released its annual report on sexual assault in the military. That report and more than a decade of data on sexual assault in the military show a clear and disturbing trend. Reports of sexual assault have increased virtually every single year and remain at record highs, while prosecution and conviction rates have declined, including a shocking 10 percent point decline in the prosecution rate from last year. By every measure that you can imagine, we are moving in the wrong direction.

Congress has given the military more than \$1 billion—\$500 million in fiscal year 2019 alone—enacted hundreds of provisions, and chartered special panels, Commissions, and advisory committees to address this problem. Not one of these steps has reduced the prevalence rate of sexual assaults within the ranks. We are still getting reports like the one we got from Fort Hood, which found that the world's largest Army base was “a permissive environment for sexual assault and sexual harassment.” We are right where we started. Nothing has changed.

I have heard from too many survivors who have barely come forward in search of justice, only to have their cases outright declined by the chain of command and then face more harassment and retaliation for reporting their assailant. We owe it to our servicemembers to do more to prevent these crimes and properly prosecute them when they occur.

Our bill, the Military Justice Improvement and Increasing Prevention Act, would ensure that, when these crimes are committed, justice is delivered. It does so by taking the same approach to these cases that the military takes in almost every other area of operation. It puts highly technical work in the hands of trained specialists.

This bipartisan and commonsense reform moves the decision on whether to prosecute serious crimes to independent, trained, and professional military prosecutors while leaving misdemeanors and uniquely military crimes within the chain of command. In other words, it will let prosecutors prosecute and commanders command.

By moving this work off of the commander's plate, it will empower command to focus on mission-critical activities and on rebuilding the trust among their ranks that we know is critical to military readiness.

This bill is not political. It is about doing the right thing for our servicemembers who do so much for this Nation.

The Military Justice Improvement and Increasing Prevention Act has bipartisan, filibuster-proof support. It is supported by 63 Senators, including 42 Democrats, 2 Independents, and 19 Republicans, and the majority of the Senate Armed Services Committee. If we brought this bill to the floor today, it would pass.

We have the legislation, and we have the votes. Now we just need the will to act. I urge all of my colleagues to join me in working to pass this bill as quickly as possible. As this week's Department of Defense report makes clear, our servicemembers do not have time to wait.

I yield the floor to Senator GRASSLEY.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the time has come for this bill to pass. After 8 years of Senator GILLIBRAND's work in this area, it proves that she is a Senator who doesn't give up, and it proves that she is a Senator who can bring bipartisanship to a city that needs more bipartisanship.

So I, like her, call on my colleagues to pass this bill, the Military Justice Improvement and Increasing Prevention Act, by unanimous consent.

I first joined Senator GILLIBRAND in advocating for this legislation in 2013, after truly horrifying reports out of the Pentagon about the rate of sexual assault and other criminal offenses going unpunished and a recommendation from a Commission on how to improve the system.

Whether it is in the military or whether it is outside the military, a crime is a crime, and it ought to be punished. It shouldn't be overlooked, as so often is what happens in the military.

We have been pushing for this bill ever since, despite promises from the Department of Defense that they had everything under control. We heard, time and time again, about new initiatives to stop sexual assaults and harassment. Yet things are worse today than when we started out.

They haven't worked. In the most recent review, almost 21,000 soldiers were victims of sexual assault. Only 4 percent of the cases went to trial, and 62 percent of those who reported sexual assault experienced retaliation—retaliation just because you shouldn't be hurt just because you are in the military and people can get away with it. In two-thirds of these cases, the retaliation comes from inside the chain of command.

The Department of Defense has had more than enough time to try their way to fix this problem, and it is clear a new approach is needed. It is the same approach that Senator GILLIBRAND has been trying to get done in this body for the last 8 years, and we have always been put off because of these promises that were never carried out.

By moving the decision to prosecute out of the chain of command, perpetra-

tors of sexual assault and other serious crimes will be held accountable and should be held accountable. Survivors will have more confidence in the process. Retaliation will be less likely.

This year, there is fresh support for the effort. The new Secretary of Defense, Secretary Austin, has indicated that addressing this issue is a priority. A Department of Defense panel of experts that was convened recommended taking the decisions out of the chain of command. The President has signaled his support, and the bill in the Senate has over 60 bipartisan cosponsors, including my fellow Senator from Iowa JONI ERNST.

We have been waiting almost a decade. There is no need to wait any longer. I urge my colleagues to show unanimous support for protecting our men and women in military and allow this bill to pass. After 8 years and a demonstrated need in the recent 2 or 3 years for bipartisanship, it is right here in this bill. It deserves to be handled as a standalone piece of legislation.

I am glad that this bill earned the support of Senator ERNST, and she was key in getting the cloture-proof majority that we have for this bill.

I would now yield to Senator ERNST.

The PRESIDING OFFICER. The Senator from Iowa.

Ms. ERNST. Mr. President, I want to thank my senior Senator from Iowa for being the lead Republican on this bill, and I am rising today as well to support my colleague in her request today for consideration of the Military Justice Improvement and Increasing Prevention Act.

Our service men and women—all of them—are volunteers. They represent some of the best our Nation has to offer. They choose to serve. They swear to protect against all enemies, foreign and domestic, and to defend the Constitution. In this day and age, they face many risks, but they should not face the risk of sexual assault from within their own ranks.

For years, the military has struggled to reduce the number of sexual assaults within the ranks. Yet we have seen little progress in defeating this scourge. The stories from survivors are heartbreaking: servicemembers who are attacked by their own teammates; servicemembers whose lives are turned upside down; servicemembers who are abandoned by their chain of command; servicemembers who receive no justice; and servicemembers who are left with the scars, often physical but always psychological, of a terrible experience.

I know these stories not just from the retelling by survivors of sexual assault but from being a survivor of sexual assault myself. It is time we take new action to stop these attacks, to bring justice for the victims and to prevent these actions going forward.

Our bill, with over 60 cosponsors, Republicans and Democrats from all political philosophies, and the endorsement of veterans groups, survivors

groups, and individual servicemembers, does that. And our bipartisan bill takes steps to ensure the unit commander is still involved and aware of what is going on within the unit.

This bill also puts in place measures for the prevention of sexual assault. It increases security on our bases and stations. It trains leaders from the top to the bottom on developing a better command climate. It reinforces training on prevention of sexual assault.

If a foreign power were to attack any of our service men and women overseas, there would be a stampede of Senators coming to the floor and demanding action. Now I hear only the footsteps of those coming to stop us from consideration of something that would help prevent attacks on our service men and women by one of their own. It is time for action, and I urge my colleagues to pass this time agreement.

Mr. President, with that, I yield to the Senator from Connecticut Senator BLUMENTHAL.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I thank the Senator from Iowa, our colleague and friend, for those really eloquent and powerful remarks. I thank her and our other colleague from Iowa, who has been beside us from the very start of this cause 8 years or more ago. But most importantly, I thank my colleague from New York, who has been unstoppable, steadfast, and resolute in this cause. We are here today with that overwhelming, bipartisan support because of her advocacy, her eloquence, and power.

Above all, we are here today because of the survivors and victims who have come forward with tremendous courage and strength. As much courage as it takes to be in the military—and I pay tribute literally every day to the men and women in uniform who defend our country, who raise their right hand, willing to give their lives—it is equally if not more difficult to come forward as they have done over these years and speak their truth to us. I have been so impressed by their bravery and by their truth-telling.

I know as a prosecutor how difficult reporting this crime is in the civilian world, in universities, in the workplace. It is excruciatingly difficult to come forward and overcome the stigma and sometimes shame and the threat of retaliation. It is that threat of retaliation that we need to counter and stop because reporting of this crime is always difficult. Underreporting is a chronic problem in prosecuting it.

So taking it out of the chain of command, eliminating the prospect of retaliation, implicit fear, even if it is not spoken—it may be unspoken—and that is what our purpose is. It is not just taking sexual assault out of the chain

of command of decision but also felonies, serious crimes that may be intertwined and interrelated with sexual assault, as they so often are in the civilian world, whether it is obstruction, intimidation of witnesses, assault, other crimes that may be related to it.

So I believe sincerely that this Secretary of Defense is committed to ending sexual assault. I talked to one of the nominees for a prominent position in the Department of Defense; I believe he is firmly committed. I have talked to others who have been confirmed or who will be nominated; they are firmly committed.

Let's make that commitment real and approve this legislation because the numbers have belied the promises. The results have betrayed the good intention, and now it is time for action.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. Mr. President, as if in legislative session, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Republican leader, the Senate Armed Services Committee be discharged from further consideration of S. 1520 and the Senate proceed to its consideration; that there be 2 hours for debate, equally divided in the usual form; and that upon the use or yielding back of that time, the Senate vote on the bill with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REED. I reserve my right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Well, thank you very much, Mr. President. I would like to first engage in a colloquy with Senator INHOFE, the ranking member of the committee, on the process we will use to consider all the ideas and amendments I expect will be offered by committee members to address the investigation and prosecution of sexual assault and related crimes under the UCMJ in the annual Defense bill.

I believe that the committee must start from a base that reflected the broadest consensus possible among our members on how best to move forward on this matter and on the recommendations of Secretary Austin's 90-day Independent Review Commission, or IRC. I understand some members would prefer there be nothing in our bill on this topic, while others will feel that the IRC recommendations do not go far enough. This is the nature of compromise and why I intend to include the IRC recommendations on accountability in the base markup of the fiscal year 2022 Defense bill, subject to amendment. I believe we will have a robust debate, and I commit to ensuring that every idea and amendment brought by our committee members is given due consideration and receives a vote if that is what the member wants.

Mr. INHOFE. Mr. President, I thank the chairman, Chairman REED, that

this important issue deserves a robust debate as we consider this year's National Defense Authorization Act. I would also like to thank Senator GILLIBRAND for her leadership and her tenacity on this issue.

As Senator REED referenced, I am one of those who do not support removing the commanders from the decision-making process. Nevertheless, I appreciate Chairman REED's commitment to ensuring this issue is debated and voted on during the full committee markup of the NDAA.

The NDAA markup process is unique in the Senate. We debate and resolve contentious issues every year. But the regular-order process is important and has served us well for many, many years—actually 60 years.

When it comes to important issues like this, we should not rush anything without making sure it is going to do the right thing by our servicemembers, and so I thank Chairman REED for his action.

Mr. REED. Mr. President, let me also thank the ranking member for his comments. I agree that our committee has a long tradition of fulsome debate during committee markup of the annual Defense bill. It is a hallmark of our committee. It ensures that everyone's voice is heard, and it is, in my view, one of the reasons we have enacted the Defense Authorization Act for 60 consecutive years.

But I also want to commend and thank Senator GILLIBRAND for her tireless advocacy for victims of sexual assault in the Armed Forces over the past 8 years, since she first introduced a version of this bill in 2013. As I announced this weekend, I agree with Senator GILLIBRAND that the time has come to reform how we investigate and prosecute sexual assault and other special victim crimes in the military.

The best way to move forward on this issue is to ensure that all 26 members of the Armed Services Committee have their voices heard and to consider this legislation in the course of the markup of the fiscal year 2022 Defense bill scheduled for July. Not only will this allow committee members, comprising over a quarter of the Senate, to have their ideas and amendments considered, as is our tradition, but it allows the administration to provide its input as well, as the Independent Review Commission that President Biden directed provides us its recommendations on accountability in the military justice system for the investigation and prosecution of sexual assault and other special victim crimes. We must be able to analyze these recommendations collectively as a committee and then consider their value.

With this in mind, as I said over the weekend, I intend to include in the chairman's mark of the fiscal year 2022 Defense bill, the IRC recommendations. It is my view that these recommendations provide the appropriate basis from which to consider the wide range of amendments and ideas I know our members will have.

I want to stress that all amendments offered by Senators on the committee will be fully considered during the full committee markup. I intend to continue our tradition of following an open amendment process within the committee, and I know that is something the Presiding Officer is quite aware of since he participated in the committee in a very responsible way over many years.

Further, while the first round of reform will focus on the issues of accountability, I hope and intend to incorporate the IRC's recommendations on prevention, climate and culture, and victim care and support into the bill as we move through the legislative year. I think these recommendations will be critically important to reducing the number of sexual assaults in the ranks.

The focus of the legislation before us is adjudication. I think we all would prefer that prevention, command climate—all of these factors be such that adjudication is not necessary because the crimes, the incidents, the difficulties, the mental and physical anguish that victims incur have been avoided because we have taken the steps to prevent these actions from taking place in our military forces.

With that, Mr. President, I would object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New York.

Mrs. GILLIBRAND. Mr. President, well, I just want to respond to my colleagues and chairman and ranking member. While I am extremely grateful for their leadership and their willingness to review and take on the IRC recommendations, the IRC recommendations are limited. It was only a 60-day review of the issue of sexual assault and sexual harassment only. It did not look at the military justice system overall. It did not have the benefit of 8 years of review, study, and passing related amendments and changes.

Our committee has passed over 200—or nearly 250—different resolutions and changes to how the military deals with sexual harassment and sexual assault, to no effect.

Deferring only to the IRC, which is an unelected panel that has only looked at this issue for 60 days, is not sufficient. Not only do we have Senators on the Armed Services Committee who have been studying this issue for 8 years, making recommendations and passing laws on this topic for 8 years, it would seem that to defer to a panel that has only looked at this issue for 60 days, to one issue, seems irresponsible.

Second, I do not believe that issues of this weight and of this significance should be dealt with the committee only. The Armed Services Committee has been working on this issue for 10 years, and we have seen no improvement in the number of sexual assaults in the military and on the rate of prosecution and the rate of conviction. That is highly problematic.

Also, when I asked for a vote on this measure over the last several years, I have been denied a vote on this measure on the floor by the chairman and the ranking member. So they have been unable or unwilling to allow me to have a vote, given all the bipartisan support we have had from the beginning.

This bill has been bipartisan from day one. Senator GRASSLEY has been on this bill from day one, as have several other Republicans. Today, we now have 63 cosponsors to this legislation—widely bipartisan—and more than half of the Armed Services Committee. We have established that the weight of this Senate, in a filibuster-proof majority, wants a floor vote on this and does not want to leave it up to the committee.

The Armed Services Committee has lost their opportunity to claim sole jurisdiction over this issue by failing to improve this situation over the last 10 years. In fact, the 250 measures that we passed were all approved by various panels that took 60 days or 90 days or a year to review this issue, and we willingly took those recommendations and turned them into law.

I, too, will willingly take the recommendations of the IRC board and turn them into law because they are good and thoughtful recommendations, but they are limited. By design, they were only allowed to look at two crimes—sexual assault and sexual harassment—and by not looking at all serious crimes, you are not looking at the weight of the problem.

We now have evidence that has been developed since 2017 about racial disparities and how the criminal justice system in the military works.

Protect Our Defenders issued a significant report that can be found at https://www.protectourdefenders.com/wp-content/uploads/2017/05/Report_20.pdf.

Mr. President, that report will show that Black servicemembers were at least 1.29 times and as much as 2.61 times more likely to have disciplinary action taken against them in an average year across all branches from 2006 to 2015. These disparities largely did not improve and in some cases worsened in the most recent years covered.

So we have other challenges within the military justice system, and now we have two areas where we have data that the military itself has collected. On sexual assault, we have 10 years of data, and now on racial disparities and racism within the military, we have data over the last 3 years, and that has to be considered as well.

So the way to fix both of these problems is really simple: Professionalize the military justice system. Allow serious crimes to be taken out of the chain of command and given to trained military prosecutors who do not have bias and have highly specialized training.

If we professionalize the military justice system, we will see justice done because there will be less bias in the

system and there will be more professionalism. The combination of those two things, we believe, based on what military members have told us, will result in more cases going forward and more prosecutions.

Second, we have the support of military justice experts. We have a letter from the National Institute of Military Justice:

The National Institute of Military Justice recommends transferring prosecutorial discretion not only for all sex offenses, but also for all serious offenses—those for which the authorized maximum punishment exceeds one year's confinement. The dividing line is a familiar feature [in the] American criminal justice [system].

These changes will strengthen the fairness of military justice and bolster public confidence in the administration.

Similarly, we have a piece published in the Marine Corps Gazette by Capt. Lambert Jackson, who has prosecuted these cases. He served as trial counsel for the 2nd Marine Division and is complex trial counsel.

He fundamentally understands the nature of these cases. He was an operational law attorney in the 1st Marine Division. He says:

Felony prosecution determinations must be vested with trained military attorneys rather than commanders; disentangling commanders from the often-ugly legal determinations for which they are ill-trained will allow commanders to more effectively focus their attention on preparing their units for conflict.

While I appreciate the willingness to take the recommendations of the panel that General Austin has impaneled to look at just two crimes and while I agree that we should accept those recommendations—and I intend to push them into the mark through our personnel subcommittee—we also should look at the reforms that 63 Senators want done. We should also look at the reforms that are supported by more than half of the Armed Services Committee members. We deserve a floor vote, and we deserve a process that cannot be undermined by the committee.

I have served on this committee for 10 years, and the chairman well understands that in conference, bills that have passed both sides have been taken out.

You do not have to look further than what happened to the safety report language. It was passed in the House, passed in the Senate, and it is safe to report, by the way, that it was offered in the Senate by Senator ERNST and me in the Armed Services Committee because it would deal with retaliation. That bill was passed in the Senate, passed in the House, and taken out in conference. That is a problem.

I do not want to expose this massive reform that is a generational reform to the whims of those who decide what gets taken out in conference. It is not acceptable to me to be watered down or reduced or minimized by those in conference. That is the risk you run by not allowing this to have a floor vote, which it deserves.

The PRESIDING OFFICER. The Senator from Iowa.

Ms. ERNST. Mr. President, I want to take just a very brief moment and thank the chairman and the ranking member of the Armed Services Committee because this is a very significant move that is being proposed by Senators GILLIBRAND and GRASSLEY and those of us who are cosponsors of this legislation.

It is time to act. It is time to act. If we can go back into previous years, I have been one of those nay-sayers. I have said to others that I was very torn about removing this decision from a commander's purview. I was torn. But we have not seen improvement when it comes to the areas of sexual assault and other serious crimes within our Nation's armed services. So it is time to take very bold action. It is time to take bold action.

I do share those concerns as so eloquently stated by Senator GILLIBRAND that we are making a bold proposal that we believe now fit for those who want prevention, like myself, those who want to reform and improve and professionalize those prosecutors within the military system. We can bring that together and move it forward, but that is not going to happen if we see it watered down through the process of the NDAA.

I would love to see this bill in its entirety passed. If that can happen through the NDAA, so be it. But as Senator GILLIBRAND just stated, we have worked on legislation before to see it come to fruition in the Senate through NDAA, but not have it passed and signed into law. So I do share those concerns, and I have not had assurances that we could pass the bill in its entirety.

I would also ask that we take this up for consideration on the floor. I think it is that important to move forward. There are a lot of survivors out there who would like to see this move forward. I believe that now we also have a swell of military members who would like to see this bill in its entirety move forward.

This body as a Senate—not just as Senate Armed Services Committee members, but this body as a Senate—this body as a Congress, we do have civilian oversight of the military and our civilian oversight takes into consideration those members, our constituents, who are asking for this change. Believe me, I am hearing from my constituents on this change.

I yield the floor.

The PRESIDING OFFICER (Ms. SMITH). The Senator from Rhode Island.

Mr. REED. Madam President, my colleagues have expressed overwhelming confidence in this bill, and I don't think that confidence will be eroded through more careful consideration by the committee. I think, in fact, the committee process will allow us to incorporate, examine, accept some and reject other provisions and recommendations by the IRC.

It also, I think, will empower or allow us to consider something that we really have considered as consistently as the issue of sexual assault, and that is the indications that racial bias is such that all felonies must be taken out of the hands of commanders, not just those related to individual sexual assault or sexual harassment cases or other related sexual conduct or misconduct—I should rightly advocate this.

Again, I think if we want to go ahead and make a fundamental change, committee consideration can only assist that change by getting broad viewpoints of those who are in favor of it, those who may be opposed to, and those who may seek changes.

And if the committee reports to the floor, there will be opportunity on the floor, once again, to engage in debate and comment.

I think we will try our best to come to a solution that is the best solution. I say that with a commitment to try my best to do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. GILLIBRAND. Madam President, one of the concerns I have is that we have been studying this issue and debating this issue for years.

We have had several floor debates. We had two floor debates because we only got to vote on it twice. Both times, we had the majority of the Senate promoting this provision.

What we have is a record of our allies already making this change, not for the issue of sexual assault in the military but for the issue of defendants' rights. The UK, Israel, Germany, Netherlands, Australia all took serious crimes, a bright-line of felonies out of the chain of command because they believed that a defendant had a right to basic civil liberties. When they did so, they did not see a diminution in command control or the ability to have good order and discipline within the ranks. And they wrote to one of the many panels that we have had over the past 10 years—that information—to tell them that this is a change we have made. And the UK even said this was a change that our commanders basically didn't notice.

So this is not some untested, out-of-the-box idea. This is an idea that is supported by the survivors, by veterans, by commanders, by experts in military justice, and by our allies. I believe that our servicemembers deserve a criminal justice system worthy of the sacrifices they make.

Last, I do not think this is a moment to defer to the committee. The committee has failed survivors over the last 10 years, and I do not think it is in their purview to make this ultimate decision. When we had a vote on the "don't ask, don't tell" repeal—something that was similarly a generational change—it was done on a floor vote, an up-or-down vote, and we had that vote twice. It was called twice because the

first time Republicans refused to participate in the vote. We called it again, and we had the 60 votes we needed to overcome a filibuster.

I believe this vote is also a once-in-a-generation vote that needs the review and the vote of the entire Senate because, not only does the Congress have the responsibility to oversee the military and the entire executive branch, but this whole body has the ability to oversee individual committees if they aren't going far enough when the moment demands it.

I believe this is some such time. We are here for a time such as this. We should do our job. We should vote on this measure, and it should be an up-or-down floor vote.

I yield the floor.

Mr. REED. Just a point of clarification, my recollection of the "don't ask, don't tell" process was that it was, in fact, considered by the committee. The language that was ultimately adopted was the committee language; that because of objections to the issue, the NDAA was filibustered consistently and in order to try to break free, in terms of passing both pieces of legislation, the "don't ask, don't tell" was removed separately. That was after a complete committee process, as well as consideration of the NDAA on the floor.

At that point, as Senator GILLIBRAND indicated, after two attempts, there were sufficient votes to pass "don't ask, don't tell," but it was duly considered in the committee.

Again, if the power of the ideas, the compelling data that they have is such, I don't know why they are concerned about allowing the full members of the committee, not just a subcommittee, to decide what should be in the final mark.

In addition to that, I think in this process—and, in fact, I think you find it on every committee—ideas, perspectives, insights are gained that would otherwise be lost. What we are trying to do is follow the procedure of the Senate, which is to present to this floor a bill that has been carefully examined by people who have dedicated a great deal of their Senate service to the Armed Services Committee, and do so with the input of the Secretary of Defense because all of this has to be implemented by the Department of Defense. And at that point, if there are still difficulties and issues, then, the Senate floor is available for amendments.

Again, I would suggest that we can make real progress in the committee. We can get legislation that is not only bipartisan but, hopefully, unanimous or nearly unanimous, and that would be a very powerful signal to our colleagues both in the House and to everyone else that this legislation will, in fact, become law.

I yield the floor.

Mrs. GILLIBRAND. Madam President, I would simply state that we have already established that this is some-

thing that should become law. We already have 63 Senators on a bipartisan basis supporting this reform.

This is not something that is new to the committee. We have been debating this issue for 8 years. I have asked for a vote every one of those 8 years and have only been given one twice. We had the majority of the Senate on both of those votes. So this bill has been filibustered for 8 years. This bill has been refused to be allowed to be part of the NDAA for a long time. This is not a new issue. These are not new facts. These are things that we have been wrestling with and failing. So I believe it is time this measure comes to the floor.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. BLUMENTHAL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF KRISTEN M. CLARKE

Mr. BLUMENTHAL. Madam President, in just hours, we will be voting on the nomination of Kristen Clarke to be Assistant Attorney General for the Civil Rights Division in the United States Department of Justice.

I am proud tonight to advocate for her, not that she needs my voice in her support. She is a brilliant leader and advocate. She has dedicated her entire career to protecting the civil rights of all Americans, and she has an extraordinary record to show for it.

She reminds me of the legal warriors in the Department of Justice during the 1950s and 1960s and 1970s who battled for the rule of law in supporting children who were trying to gain entry to desegregated schools, in voters who sought to uphold the franchise, and in men and women who challenged the denial of their rights in the South and throughout the country. The Department of Justice became a beacon of law enforcement in its upholding of the civil rights of America, and she is in that great tradition—fierce and fearless, strong and unyielding and tenacious in defending and advocating for the rights and liberties of Americans when they are denied those rights and liberties guaranteed under the Constitution and our statutes.

She served as the civil rights chief for the New York Attorney General in the civil rights bureau. She served as assistant counsel for the NAACP Legal Defense and Education Fund. She served as a Federal prosecutor during the Bush administration in the Civil Rights Division's Criminal Section and Voting Section, the very divisions that she has been nominated now to lead.

She knows these issues. She knows civil rights and civil liberty issues and law because she has worked on them for more than two decades. She cares about these issues because her life has